

FIFTEENTH DAY

(Thursday, February 2, 1939)

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by President Stevenson.

The roll was called, and the following Senators were present:

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Isbell	Stone
Lanning	of Washington
Lemens	Van Zandt
Martin	Weinert
Metcalf	Winfield
Moffett	

Absent—Excused

Kelley Sulak

A quorum was announced present.

The invocation was offered by the Chaplain.

On motion of Senator Collie, and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

Leaves of Absence Granted

Senator Sulak was granted leave of absence for today on account of important business, on motion of Senator Stone of Washington.

Senator Kelley was granted leave of absence for today on account of important business, on motion of Senator Brownlee.

Reports of Standing Committees

Senator Collie submitted the following reports of the Committee on Public Lands and Land Office:

Austin, Texas,
February 1, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Public Lands and Land Office, to whom was referred

S. B. No. 86, A bill to be entitled "An Act declaring and designating the Brazoria County coast line a State Park and dedicating it to the general public for use as a Texas State Park,"

Have had the same under consideration and I am instructed to report back to the Senate with the unanimous recommendation that it do pass and be printed.

COLLIE, Chairman.

Austin, Texas,
February 1, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Public Lands and Land Office, to whom was referred

S. B. No. 142, A bill to be entitled "An Act to withdraw from sale or lease all public free school lands heretofore authorized by any law of this State to be sold or leased; providing that such withdrawal shall not apply to applications to purchase filed prior to the effective date of this Act or to applications involved in litigation now pending; and, declaring an emergency,"

Have had the same under consideration and I am instructed to report back to the Senate with the recommendation that it do pass and be printed.

COLLIE, Chairman.

Austin, Texas,
February 1, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Public Lands and Land Office, to whom was referred

S. B. No. 53, A bill to be entitled "An Act amending S. B. 29, Chapter 13, Acts Fourth Called Session, Forty-first Legislature, so as to eliminate certain conflicts relative to the term of leases on prison lands; confirming and validating certain leases under certain circumstances and conditions; and declaring an emergency,"

Have had the same under consideration and I am instructed to report back to the Senate with the recommendation that it do pass and be printed.

COLLIE, Chairman.

Message from the Governor

The President laid before the Senate, and had read, the following message from the Governor:

Austin, Texas,
February 1, 1939.

To the Members of the Forty-sixth Legislature:

I submit to you Senate Bill No. 142 as an emergency measure for your consideration.

The effect of the bill would be to withdraw from sale or lease all public free school lands heretofore authorized by any law of this State to be sold or leased, from the effective date of the act until after the expiration of ninety (90) days from the adjournment of the Regular Session of this Legislature.

I am prompted to urge the immediate passage of this legislation by reason of the fact that the laws of this State pertaining to the sale and lease of public free school lands, particularly with reference to vacancies, are inadequate to protect the best interests of the Permanent School Fund and the tax-paying citizens of this State, and for the further reason that legislation is now pending before this Legislature for the purpose of correcting the evils now existing in the present laws.

It appears to me that this legislation would not only serve the best interests of the State and the citizens affected thereby, but would also be of assistance to you in determining proper legislation to regulate the sale or lease of public free school lands under the conditions now existing.

Respectfully submitted,
W. LEE O'DANIEL,
Governor of Texas.

Senate Bills on First Reading

The following bills were introduced, read severally first time, and referred to the committees indicated:

By Senator Aikin:

S. B. No. 143, A bill to be entitled "An Act to amend Article 5420 of the Revised Civil Statutes of Texas, 1925, by requiring that all suits under said Article and under Article 5419 of the Revised Civil Statutes of Texas, 1925, hereafter filed, be brought in the county in which the land involved or any part thereof may lie, and pro-

viding for the transfer from the District Court of Travis County, Texas, to the court having jurisdiction in the county in which the land or any part thereof may lie of cases heretofore filed by the State in the District Court of Travis County, Texas, under said Articles and not yet tried in the trial court on motion of any party to any such cause, and providing for the hearing and disposition of such motion, repealing all laws or parts of laws in conflict therewith and declaring an emergency."

Referred to Committee on Civil Jurisprudence.

By Senator Moffett:

S. B. No. 144, A bill to be entitled "An Act validating all Ordinances of Home Rule Cities in Texas incorporated under and operating under the provisions of the Home Rule Amendment to the Constitution of the State of Texas and under Title 28, Chapter 13 of the Revised Civil Statutes of Texas, 1925, where such Ordinances have been passed in compliance with the charters of such Home Rule Cities and have been published, as provided in such charters, where such charters require same to be published, and declaring an emergency."

Referred to Committee on Civil Jurisprudence.

By Senator Stone of Galveston:

S. B. No. 145, A bill to be entitled "An Act supplemental to and amending Article 6341, Revised Civil Statutes of Texas, 1925, relating to the powers of railroad corporations, enlarging their charter powers, and empowering them to transport persons, property, goods, wares, merchandise, mail and any valuable thing by highway, air, pipe line, and water, repealing all laws or parts of laws in conflict, providing if any part is declared unconstitutional, such decision shall not affect the remainder of the Act, and declaring an emergency."

Referred to Committee on Highways and Motor Traffic.

By Senator Stone of Galveston:

S. B. No. 146, A bill to be entitled "An Act supplemental to and amending Article 6341, Revised Civil Statutes of Texas, 1925, relating to the powers of railroad corporations, enlarging their charter powers, and empowering them to transport persons,

property, goods, wares, merchandise, mail, and any valuable thing by highway, repealing all laws or parts of laws in conflict, providing if any part is declared unconstitutional, such decision shall not affect the remainder of the Act, and declaring an emergency."

Referred to Committee on Highways and Motor Traffic.

By Senator Graves:

S. B. No. 147, A bill to be entitled "An Act to amend Article 1839 of R. C. S. of 1925, as amended by S. B. No. 57, Chapter 67, Acts of the Regular Session of the 43rd Legislature, so as to fix the time for filing the Transcript and Statement of Facts in the Court of Civil Appeals and providing for an extension of such time for cause shown; and declaring an emergency."

Referred to Committee on Civil Jurisprudence.

By Senator Graves:

S. B. No. 148, A bill to be entitled "An Act to amend Articles 3516 and 3517 of R. C. S. of 1925, providing the manner in which claims shall be presented to executors or administrators."

Referred to Committee on Civil Jurisprudence.

By Senator Head:

S. B. No. 149, A bill to be entitled "An Act making an appropriation for the State Health Department for the purpose of establishing and conducting full time rural health services on a cooperative basis when deemed necessary by the State Health Department, and limiting the amount to be spent in each county, and requiring matching of dollars by the counties with the State Health Department, and declaring an emergency."

Referred to Committee on Finance.

Message from the House

The Chief Clerk of the House was recognized to present the following message:

Hall of the House of Representatives,
Austin, Texas, February 2, 1939.

Hon. Coke Stevenson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has

passed the following bill and resolutions:

S. B. No. 119, A bill to be entitled "An Act amending Article 7098, R. C. S. 1925, so as to place the State Treasurer on the State Tax Board in place of the Tax Commissioner; providing that the Comptroller shall be ex-officio Tax Commissioner and shall discharge the duties of such office; providing that the unexpended balance of the appropriation for the office of Tax Commissioner shall revert to the General Fund; providing that all laws and parts of laws in conflict with this Act are repealed to the extent of such conflict; and declaring an emergency." (With amendments.)

H. C. R. No. 21, Authorizing the Highway Department to place the insignia of the Longhorn steer on the 1940 motor vehicle license plates.

H. C. R. No. 27, Opposing resolution pending in Congress relating to submerged Coast lands.

H. C. R. No. 28, Granting to each House permission to adjourn from Thursday, February 2, 1939 to Monday, February 6, 1939.

Respectfully submitted,

E. R. LINDLEY,
Chief Clerk, House of Representatives.

House Concurrent Resolution 28

The following resolution, received from the House today, was laid before the Senate:

H. C. R. No. 28, Authorizing adjournment of House and/or Senate from February 2, 1939, to February 6, 1939.

The resolution was read, and by unanimous consent, it was considered at this time.

The resolution was adopted.

Senate Resolution 19

Senator Moffett, by unanimous consent, offered at this time the following resolution:

Whereas, The State Wide Cotton Committee of Texas will hold a session in the City of Austin on the night of February 16, 1939; and

Whereas, It is expected that at least two speakers of national note will be on the program of this committee; and

Whereas, The subject matter of the program which this State Wide Cotton Committee is sponsoring is of the utmost importance; now, therefore, be it

Resolved, That the use of the Senate Chamber be tendered to the State Wide Cotton Committee on the night of February 16, 1939.

MOFFETT,
LEMENS.

The resolution was read, and on motion of Senator Moffett, and by unanimous consent, it was considered at this time.

The resolution was adopted.

Senate Concurrent Resolution 4

Senator Brownlee, by unanimous consent, offered at this time the following resolution:

Whereas, Dr. Homer Price Rainey, recently appointed President of the University of Texas, is visiting in Austin; now, therefore, be it

Resolved by the Senate of Texas, the House concurring, That Dr. Rainey be invited to address a joint session of the Senate and House Monday, February 6, 1939, at eleven forty (11:40) a. m.

BROWNLEE,
REDDITT.

The resolution was read, and on motion of Senator Brownlee, and by unanimous consent, it was considered at this time.

The resolution was adopted.

Report of Standing Committee

Senator Cotten, by unanimous consent, submitted at this time the following report of the Committee on Highways and Motor Traffic:

Austin, Texas,
February 2, 1939.

Hon. Coke R. Stevenson, President of the Senate:

Sir: We, your Committee on Highways and Motor Traffic, to whom was referred

S. B. No. 93, A bill to be entitled "An Act creating a Special Road Law for Kaufman County, Texas; providing that said County may fund or refund the indebtedness outstanding against its Road and Bridge Fund

as of June 8, 1938; setting forth the method of operation; validating the indebtedness proposed to be funded or refunded; validating all acts and proceedings heretofore had by the Commissioners' Court of said County, and officers thereof, in respect to the funding or refunding of said indebtedness; providing this law shall be cumulative of General Laws on the subject of roads and bridges and General Laws on funding or refunding bonds not in conflict herewith; providing this law shall be cumulative of Special Road Laws for Kaufman County, Texas, not in conflict herewith; enacting provisions incident and relating to the subject and purpose of this Act; repealing all laws in conflict herewith, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

BROWNLEE, Chairman.

Senate Bill 119 with House Amendments

Senator Roberts called up Senate Bill No. 119 from the President's table, for consideration of the House amendments to the bill.

The President laid the bill before the Senate, and the House amendments were explained by Senator Roberts.

Question—Shall the Senate concur in the House amendments?

The Senate concurred in the House amendments by the following vote:

Yeas—26

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Stone
Head	of Galveston
Isbell	Stone
Lanning	of Washington
Lemens	Van Zandt
Martin	Weinert
Moffett	Winfield

Nays—2

Hill

Metcalfe

Absent

Spears

Absent—Excused

Kelley

Sulak

Message from the House

A Clerk from the House was recognized to present the following message:

Hall of the House of Representatives,
Austin, Texas, February 2, 1939.

Hon Coke R. Stevenson, President of
the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills and resolution:

H. C. R. No. 29, Authorizing the State Highway Department to lend scarifier, for use on County roads, to Grimes County, Texas.

S. C. R. No. 4, Inviting Dr. Homer Price Rainey to address the House and the Senate in a joint session Monday, February 6, 1939.

S. B. No. 25, A bill to be entitled "An Act authorizing the refunding of Texas relief bonds, first series, prescribing the duties and authority of the Texas Bond Commission in connection with the calling and refunding of said bonds at a lower rate of interest, prescribing the terms and conditions for the issuance and payment of said refunding bonds, providing that Section 5 of Chapter 37, Acts of the First Called Session of the Forty-third Legislature, shall not apply to said refunding bonds, making an appropriation for the payment of principal and interest of said refunding bonds for the biennium ending August 31, 1941, and declaring an emergency."

(With amendments.)

S. B. No. 84, A bill to be entitled "An Act to create a more efficient road law for Randall County, Texas, validating an order heretofore passed by the Commissioners' Court of Randall County authorizing the issuance of certain road and bridge funding bonds, the indebtedness refunded thereby, declaring said bonds when issued, approved by the Attorney General and registered by the Comp-

troller as the binding obligation of said county, excepting from the validating provisions of this Act any indebtedness in litigation, and declaring an emergency."

S. B. No. 103, A bill to be entitled "An Act permitting trustees of school districts in counties having a population of not less than five thousand seven hundred and ninety-six nor more than five thousand eight hundred and ninety inhabitants according to the last preceding Federal Census to issue time warrants for the purpose of taking up, refunding and extending indebtedness incurred for the legal maintenance of schools in said districts up to June 1, 1939; providing for the amount and maturity of such warrants and interest, thereon and for the mode of payment, and declaring an emergency."

S. B. No. 72, A bill to be entitled "An Act providing an open season for hunting wild quail in Guadalupe County; providing a penalty for killing any quail except during the open season herein provided; repealing all laws in conflict with this Act; and declaring an emergency."

Respectfully submitted,

E. R. LINDLEY, Chief Clerk,
House of Representatives.

Bills and Resolutions Signed

The President signed in the presence of the Senate, after their captions had been read, the following enrolled bills and resolutions:

H. B. No. 251, "An Act providing that in counties having a population of not less than thirty thousand five hundred and eighty-three (30,583), and not more than thirty thousand six hundred (30,600) according to the last preceding Federal Census, the County Judge may appoint a court stenographer to be called and known as the Official County Court Reporter of the County Court; to define and prescribe the duties of such Court Reporter, and fix the compensation and tenure of office, prescribing the fund from which the salary is to be paid and prescribing the taxing of costs in civil suits in which answer is filed, and declaring an emergency."

H. B. No. 157, "An Act creating and establishing Jackson County Road District Number Ten in Jackson County, Texas, under Article II, Section

52 of the Constitution for the purpose of the construction, operation, and maintenance of macadamized, graveled, or paved roads or turnpikes, or in aid thereof; describing the territory included therein; making the District a body corporate with authority to sue and be sued; authorizing the District to issue bonds upon two-thirds vote of the qualified electors who own taxable property in said District and who have duly rendered the same for taxation, voting at an election; prescribing the method of calling and conducting such election, and the method of issuing said bonds; directing the levy, assessment, and collection of a tax for the payment of principal and interest of said bonds; providing for the custody and disbursement of the funds of the District; providing that in awarding contracts for road construction the Commissioners' Court shall advertise for bids and shall award the contract to the lowest and best bidder; providing that the fact that portions of the District hereby created are also included in other road Districts having outstanding bonds shall not affect the District hereby created or its powers hereby granted; etc., and declaring an emergency."

H. B. No. 71, "An Act regulating the election of judges and clerks and the appointment of supervisors; prescribing their number and rates of pay and the duties of supervisors in all elections for the election of officers in all cities in this State having a population in excess of two hundred thousand (200,000) and less than two hundred and sixty thousand (260,000) by the last preceding Federal Census or any future Federal Census; providing for its enforcement; providing for partial invalidity; repealing all the portions of laws, charter provisions and ordinances in conflict therewith; defining a local political party, and declaring an emergency."

S. B. No. 119, "An Act amending Article 7098, R. C. S. 1925 so as to place the Attorney General on the State Tax Board in place of the Tax Commissioner; providing that the Comptroller shall be ex-officio Tax Commissioner and shall discharge the duties of such office; providing that the unexpended balance of the appropriation for the office of Tax Commissioner shall revert to the General

Fund; providing that all laws and parts of laws in conflict with this Act are repealed to the extent of such conflict; and declaring an emergency."

S. B. No. 72, "An Act providing an open season for hunting wild quail in Guadalupe County; providing a penalty for killing any quail except during the open season herein provided; repealing all laws in conflict with this Act; and declaring an emergency."

S. B. No. 84, "An Act to create a more efficient road law for Randall County, Texas, validating an order heretofore passed by the Commissioners' Court of Randall County authorizing the issuance of certain road and bridge funding bonds, the indebtedness refunded thereby, declaring said bonds when issued, approved by the Attorney General and registered by the Comptroller as the binding obligation of said county, excepting from the validating provisions of this Act any indebtedness in litigation, and declaring an emergency."

S. B. No. 103, "An Act permitting trustees of school districts in counties having a population of not less than five thousand seven hundred and ninety-six nor more than five thousand eight hundred and ninety inhabitants according to the last preceding Federal Census to issue time warrants for the purpose of taking up, refunding and extending indebtedness incurred for the legal maintenance of schools in said districts up to June 1, 1939; providing for the amount and maturity of such warrants and interest thereon and for the mode of payment, and declaring an emergency."

H. C. R. No. 26, Providing for a joint session of the Legislature to hear address of Hon. Nathan Straus.

H. C. R. No. 28, Authorizing adjournment of House and/or Senate from Thursday, February 2, 1939, to Monday, February 6, 1939.

House Concurrent Resolution 21

The following resolution, received from the House today, was laid before the Senate:

H. C. R. No. 21, Recommending the impression of the likeness of a Texas steer head on the 1940 motor vehicle license plates.

The resolution was read and was referred to the Committee on Highways and Motor Traffic.

House Concurrent Resolution 27

The following resolution, received from the House today, was laid before the Senate:

H. C. R. No. 27, Relating to title to submerged lands and oil reserves along the coastline of Texas.

The resolution was read and was referred by the President to the Committee on Education.

Senate Bill 5 on Second Reading (Special Order)

The President laid before the Senate, as a special order for this hour, on its second reading and passage to engrossment:

S. B. No. 5, A bill to be entitled "An Act repealing H. B. No. 170, Chapter 91 of the Acts of the First Called Session of the Forty-first Legislature of the State of Texas, 1929; and providing for the creation of a Legislative Audit Committee and fixing its duties, and providing for the appointment of a State Auditor by said Legislative Audit Committee; etc., and declaring an emergency."

The bill was read second time.

Senator Moore offered the following (committee) amendment to the bill:

Amend Senate Bill No. 5 by striking out all below the enacting clause and inserting in lieu thereof the following:

"Section 1. That House Bill No. 170, Chapter 91, of the Acts of the First Called Session of the Forty-first Legislature of the State of Texas, 1929, be and the same is hereby repealed. Any funds remaining in the appropriation for the current biennium for the office of State Auditor and Efficiency Expert, at the time this Act shall take effect, shall revert to the General Revenue Fund of the State.

"Sec. 2. There is hereby created a Legislative Audit Committee, which shall be composed of the Speaker of the House of Representatives, the Chairman of the Appropriations Committee of the House of Representatives, the Chairman of the Revenue

and Taxation Committee of the House of Representatives, the Lieutenant Governor, the Chairman of the Finance Committee of the Senate and the Chairman of the Committee on State Affairs of the Senate. The members of said Committee shall receive no compensation for the services performed under the provisions of this Act, but each shall receive his actual and necessary expenses incurred in the discharge of his duties as such member. The Committee, within ten (10) days from the passage of this Act, shall meet and organize by electing one member of said Committee chairman and another member of said Committee secretary. In voting on any question which this Act requires the Legislative Audit Committee to decide, if the full Committee is present and there is a tie vote and the Committee cannot secure, within a reasonable time, a majority vote either for or against the proposition under consideration, then the Lieutenant Governor and the Speaker of the House shall agree on a seventh member, selected from the membership of either the House or the Senate, and the member so selected shall meet with the Committee and shall vote on the proposition under consideration. When he has voted and the proposition has been decided, his duties as a member of such Committee shall end.

"Sec. 3. Such Committee, or the majority of the membership thereof, shall appoint an investigator of all custodians of public funds, disbursing agents, and personnel of departments, the title of such officer to be State Auditor. The appointment shall be made during the period from February 1 to February 15 of each odd numbered year and the person so appointed State Auditor shall hold the office until his successor is appointed and qualifies; provided, however, that immediately upon the effective date of this Act, such Committee shall appoint an auditor for the period expiring in February, 1941. Such Auditor shall be a Certified Public Accountant of Texas.

"Sec. 4. The person appointed State Auditor shall have had at least five (5) years experience as a Certified Public Accountant immediately preceding his appointment and he shall be a man of unquestioned integrity and moral character and

who has had sufficient experience in business and finance to properly discharge the functions of the office. He shall have been a citizen and resident of Texas for at least five (5) years immediately preceding his appointment. He shall qualify by taking the Constitutional oath of office and executing a bond to be approved by the appointing power, payable to the Governor of the State of Texas and his successors in office, in the sum of Twenty-five Thousand (\$25,000.00) Dollars, conditioned upon the faithful discharge of the duties of his office, with a solvent surety company as surety. The premium due the surety company for the execution of such bond shall be paid by the State.

"Sec. 5. The Legislative Audit Committee, or a majority of the membership thereof, shall execute a written appointment of the person so appointed as such State Auditor and cause the same to be filed in the office of the Secretary of State. The person so appointed to such office, within ten (10) days after his appointment, shall file in the office of the Secretary of State his oath and approved bond, and if he shall fail to do so, the Committee, or a majority of the membership thereof, shall appoint some other qualified person to fill such office. All vacancies in the office of State Auditor shall be filled by the Committee or a majority of the membership thereof.

"Sec. 6. The State Auditor is hereby granted the authority and it shall be his duty:

1. To perform an audit of all accounts, books and other financial records of the State Government or any officer of the State, department, board, bureau, institution, commission or agency thereof and to prepare a written report or reports of such audit or audits to the Legislative Audit Committee and such other person or persons hereafter designated in this bill.

2. To personally, or by his duly authorized assistants, examine and audit all fiscal books, records and accounts of all custodians of public funds, and of all disbursing officers of this State, making independent verifications of all assets, liabilities, revenues and expenditures of the State, its departments, boards, bureaus, institutions, commissions or

agencies thereof now in existence or hereafter created.

3. To require such changes in the accounting system or systems and record or records of any office, department, board, bureau, institution, commission or state agency, that in his opinion will augment or provide a uniform, adequate, and efficient system of records and accounting.

4. To work with the executive officers of any and all State offices, departments, boards, bureaus, institutions, commissions or agencies thereof hereafter created in outlining and installing a uniform, adequate and efficient system of records and accounting.

5. To require the aid and assistance of all executives and officials, auditors, accountants and other employees of each and every department, board, bureau, institution, commission or agency of the State at all times in the inspection, examination and audit of any and all books, accounts and records of the several departments.

The State Auditor shall have access at all times to all of the books, accounts, reports, confidential or otherwise, vouchers, or other records of information in any State office, department, board, bureau, or institution of this State.

In making any changes, the State Auditor shall take into consideration the present system of such books, records, accounts and reports in order that the transition may be gradual. The past and present records shall be coordinated into the new system. It is the object and purpose of this Act, among other things, to install a unified and coordinated system of accounting and records in every department, bureau, board and institution of the State government.

The State Auditor shall also perform such other duties as may be required of the State Auditor or State Auditor and Efficiency Expert by any other existing law or laws of this State.

"Sec. 7. In addition to the other duties provided for the State Auditor, he shall thoroughly examine all departments of the State Government with special regard to their activities and the duplication of efforts between departments and the quality of service being rendered by subordinate employees in each of the several departments.

Upon completing the examination of any department, he shall furnish the head thereof with a report of, among other things, (a) the efficiency of the subordinate employees; (b) the status and condition of all public funds in charge of such department; (c) the amount of duplication between work done by the departments so examined and other departments of the State Government; (d) the expense of operation of the department; (e) breaches of trust and duty, if any, by any officer, department, institution, board, bureau, or other custodian or disbursement officer of public funds; (f) any suggested changes looking toward economy and reduction of number of clerical and other employees, and the elimination of duplication and inefficiency. Copies of each such report shall be filed with the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, and the Secretary of State.

The State Auditor shall file an annual report with the Governor; copies of such report shall be filed with the Speaker of the House, the Lieutenant Governor and in the office of the Secretary of State. Such annual report shall contain, among other things, copies of, or the substance of reports made to the various departments, bureaus, institutions, and boards, as well as a summary of changes made in the system of accounts and records thereof.

Reports shall also contain specific recommendations to the Legislature for the amendment of existing laws or the passage of new laws designed to improve the functioning of various departments, boards, bureaus, institutions or agencies of State Government to the end that more efficient service may be rendered and the cost of government reduced.

All recommendations submitted by the State Auditor shall be confined to those matters properly coming within his jurisdiction, which is to see that the laws passed by the Legislature dealing with the expenditure of public monies are in all respects carefully observed, and that the attention of the Legislature is directed to all cases of violation of the law and to those instances where there is need for change of existing laws or the passage of new laws to secure the efficient spending of public funds. The State Auditor shall not include in his recommendations to the Legis-

lature any recommendations as to the sources from which taxes shall be raised to meet the governmental expense.

All reports by the State Auditor shall call attention to any funds, which, in his opinion, have not been expended in accordance with law or appropriations by the Legislature; and shall make recommendations to the Legislature as to the manner or form of appropriations, which will avoid any such improper expenditure of money in the future.

Each of the auditings herein provided for shall be made and concluded as directed by the Legislative Audit Committee; but shall be concluded and reports thereof made not later than thirty (30) days before the convening of each Regular Session of the Legislature. The Committee shall direct the Auditor to make any special audit or investigation that in its judgment is proper or necessary to carry out the purpose of this Act or to assist the Legislature in the proper discharge of its duties.

The Committee shall direct the printing or mimeographing of such number of any reports as it thinks necessary and proper.

All reports filed by the Secretary of State shall be open to public inspection.

"Sec. 8. The State Auditor shall keep, or cause to be kept, a complete, accurate and adequate set of fiscal transactions of the State Auditor's office. He shall also keep a complete file of copies of all audit reports, examinations, investigations, and any and all other reports or releases issued by him or his office, and a complete file of audit work papers and other evidences pertaining to work of the office of State Auditor.

"Sec. 9. If the State Auditor finds in the course of his audit evidence or improper transactions or of incompetence in keeping fiscal records and accounts or handling funds or of any other improper practices of financial administration or of any general incompetency of personnel, inadequacy of fiscal records, he shall report same to the Governor, the Legislative Audit Committee, and the executive Department head or heads immediately. If the State Auditor shall find evidence of illegal transaction, he shall forthwith report such transactions to the Governor, the Legislative Audit Committee, the Attor-

ney General and the department heads.

Immediately upon receipt of a report from the State Auditor of incompetency of personnel and inadequacy of fiscal records the Legislative Audit Committee shall review the State Auditor's report of same and hold hearings with the Department head or heads concerning such incompetency and inadequacy of fiscal records. The Legislative Audit Committee, after holding such hearings, shall make a report to the Department head or heads requesting the removal or replacement of the incompetent personnel or the installation of the necessary fiscal records. The Legislative Audit Committee shall report to the Legislature any refusal of the department officials to remedy such incompetency or the installation of proper fiscal records.

"Sec. 10. The State Auditor shall devote his entire time to the discharge of the duties herein imposed upon him, shall maintain his office in the Capitol, and the Board of Control is directed to furnish suitable quarters, supplies and stationery for him and his assistants and employees. The State Auditor shall receive for his services the sum of Seven Thousand Five Hundred (\$7,500.00) Dollars per annum and the necessary traveling expenses, payable monthly in the manner as other State officers are paid. All vouchers issued in the payment of salary and expenses to the State Auditor shall be approved by the Chairman of the Legislative Audit Committee before they are paid; and all vouchers issued for the payment of salaries of assistant auditors and for stenographic and clerical help, as well as all vouchers issued in the payment of other expenses incurred in the operation of the office of the State Auditor shall be approved by the State Auditor before they are paid. Traveling expenses for all employees in the State Auditor's office when engaged on official business shall be paid to the extent authorized in the appropriation bill for the State Auditor's office. The Legislative Audit Committee, or a majority of the members of the Committee, shall fix and determine the number of and the amount of salary to be paid each assistant auditor and all stenographic and clerical assistants within the limits of the appropriation therefor. Such salaries and compensation shall be paid monthly. The salary of no

assistant auditor shall exceed the sum of Five Thousand (\$5,000.00) Dollars per annum, except the First Assistant, whose salary shall not exceed Six Thousand (\$6,000.00) per annum. The First Assistant State Auditor shall perform such duties and assignments as the State Auditor may prescribe and shall act as State Auditor in the absence of the State Auditor. All such assistant auditors and stenographic and clerical assistants shall be named and appointed by the State Auditor. No person shall be appointed as an assistant auditor unless he be a Certified Public Accountant.

"Sec. 11. The State Auditor shall be free to select the most efficient personnel available for each and every position in his office, to the end that he may render to the Members of the Legislature that service which they have a right to expect. It being the intention and desire of the Legislature to free the State Auditor and his staff from partisan politics, it is hereby declared to be against public policy and unlawful for any Member of the Legislature or any official or employee of the State Government or any board, bureau, department or institution thereof to recommend or suggest the appointment of any person to a position on the staff of the State Auditor. The State Auditor is hereby authorized to conduct such professional examinations as he may deem expedient in determining the qualifications of the persons whom he contemplates placing on his staff.

"Sec. 12. The State Auditor may be removed or discharged at any time by the Legislative Audit Committee, or a majority of the members thereof, and such office or position filled by appointment, the same as though a vacancy existed in such office. The State Auditor may remove or discharge any assistant auditor or any stenographic or clerical assistants at any time.

"Sec. 13. Any officer or person employed by the State of Texas or any governmental unit of the State who shall refuse to permit the examination or access to the books, accounts, reports, vouchers, papers, documents or cash drawer or cash of his office, department, institution, board or bureau by the State Auditor, or who shall in any way interfere with such examination, or who shall refuse to make any report required by this Act, shall be guilty of a misdemeanor and

upon conviction shall be fined not less than One Hundred (\$100.00) Dollars nor more than One Thousand (\$1,000.00) Dollars, or by imprisonment in the county jail for not less than one (1) month nor more than twelve (12) months, or by both such fine and imprisonment.

"Sec. 14. The State Auditor shall not serve in any ex-officio capacity, on any administrative board or commission or have any financial interest in the transactions of any department, board, bureau, institution, commission or agency of the State.

"Sec. 15. Wherever the word "department", "board", "bureau", "institution", "commission" or other word or words of similar import appear in this Act, such shall mean every department, board, bureau, institution, commission or agency of the State Government.

"Sec. 16. The fact that there is no adequate law requiring a continuous audit of large expenditures of public funds under the authority of an agency responsible to the Legislature of this State, creates an emergency and an imperative public necessity that the Constitutional Rule requiring all bills to be read on three several days be suspended, and such Rule is suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Question—Shall the (committee) amendment be adopted?

Sen Aikin raised a point of order against further consideration of the bill on the ground that it violates Section 1 of Article II of the State Constitution, which reads as follows:

"The powers of the Government of the State of Texas shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy, towit: Those which are legislative to one, those which are executive to another, and those which are judicial to another; and no person, or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted."

The President overruled the point of order.

On motion of Senator Moore, and by unanimous consent, it was agreed to consider the (committee) amendment as a complete committee substitute bill and to dispose of it in accordance with the procedure prescribed in Senate rule 99b.

Senator Pace offered the following amendment to the committee substitute bill:

Amend Committee Substitute for Senate Bill 5 as amended by adding a new section as follows:

Section 5-A. The appointment of the State Auditor shall be by the Legislative Audit Committee immediately certified to the Senate, if the same be in session and if it not be then in session it shall be certified within ten days after said Senate shall be officially convened for any purpose, and if, after consideration by the Senate, the person so appointed and certified shall not receive the approval of two-thirds of the Members of the Senate he shall not be considered as approved, and the Legislative Committee shall at once proceed to the selection of another for such position.

The amendment was adopted.

Senator Metcalfe offered the following amendment to the committee substitute bill:

Amend Substitute Senate Bill No. 5 by striking out all of Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15.

METCALFE,
AIKIN.

Senator Van Zandt moved to table the amendment.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—21

Beck	Nelson
Brownlee	Pace
Collie	Redditt
Cotten	Roberts
Graves	Shivers
Head	Stone
Isbell	of Galveston
Lanning	Stone
Lemens	of Washington
Martin	Van Zandt
Moffett	Weinert
Moore	

Nays—5

Aikin
Burns
Hardin

Hill
Metcalf

Absent

Small
Spears

Winfield

Absent—Excused

Kelley

Sulak

Senator Nelson offered the following amendment to the Committee Substitute bill:

Amend Committee Substitute S. B. No. 5 as follows: By inserting after the word "State" in line 23, page 6, Sec. 7 the following:

"and each member of the Legislature"

The amendment was adopted.

Senator Nelson offered the following amendment to the Committee Substitute bill:

Amend Committee Substitute S. B. No. 5 as follows: By adding after the word Senate in line 42, page 4, Sec. 2, the following:

"together with 3 other Members of the Senate who shall be selected by the Lieutenant Governor and three other Members of the House of Representatives who shall be selected by the Speaker of such House."

On motion of Senator Moore, the amendment was tabled.

Senator Burns offered the following amendment to the Committee Substitute bill:

Amend Committee Substitute S. B. 5, page 6, line 44, by striking out the word "NOT" in said line.

Senator Moore moved to table the amendment.

Yeas and nays were demanded and the motion to table prevailed by the following vote:

Yeas—19

Beck
Brownlee
Collie
Cotten
Graves
Isbell
Martin

Moffett
Moore
Pace
Redditt
Roberts
Shivers
Small

Stone
of Galveston
Stone
of Washington

Van Zandt
Weinert
Winfield

Nays—9

Aikin
Burns
Hardin
Hill
Lanning

Lemens
Metcalf
Nelson
Sulak

Absent

Head

Spears

Absent—Excused

Kelley

Senator Sulak offered the following amendment to the Committee Substitute Bill:

Amend Section 10 of Committee Substitute Bill, page 7, line 32, by substituting for the words and figures "Seven Thousand Five Hundred (\$7,500.00)" the words and figures Forty-eight hundred (\$4,800.00)."

SULAK,
HILL,
AIKIN.

Senator Moore moved to table the amendment.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—17

Brownlee
Collie
Cotten
Graves
Lanning
Lemens
Martin
Moore
Pace
Redditt

Roberts
Shivers
Stone
of Galveston
Stone
of Washington
Van Zandt
Weinert
Winfield

Nays—9

Aikin
Beck
Burns
Hardin
Hill

Isbell
Metcalf
Moffett
Nelson
Sulak

Absent

Head
Small

Spears

Absent—Excused

Kelley

Senator Sulak offered the following amendment to the Committee Substitute Bill:

Amend Committee Substitute S. B. 5, Section 10, page 7, lines 50 and 51, by substituting for the words and figures, "Six Thousand (\$6,000.00)" the words and figures "Forty-four Hundred (\$4,400.00)."

SULAK,
HILL.

Senator Van Zandt moved to table the amendment.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—15

Brownlee	Pace
Collie	Redditt
Cotten	Shivers
Graves	Stone
Head	of Galveston
Lemens	Van Zandt
Martin	Weinert
Moore	Winfield

Nays—13

Aikin	Metcalf
Beck	Moffett
Burns	Nelson
Hardin	Roberts
Hill	Stone
Isbell	of Washington
Lanning	Sulak

Absent

Small Spears

Absent—Excused

Kelley

Senator Sulak offered the following amendment to the Committee Substitute Bill:

Amend Section 10 of Committee Amendment No. 1, page 7, line 49, by substituting for the words and figures "Five Thousand (\$5,000.00)" the words and figures "Four Thousand Two Hundred (\$4,200.00)."

SULAK,
HILL.

The amendment was adopted.

Senator Sulak offered the following amendment to the Committee Substitute Bill:

Amend Section 10, page 7, line 56, by adding the following:

"The salaries paid shall in no event exceed the amounts paid in other departments for similar services."

SULAK,
HILL.

Senator Hardin moved the previous question on the amendment and the engrossment of the bill, and the motion was duly seconded.

The main question was ordered, by the following vote:

Yeas—16

Brownlee	Pace
Cotten	Roberts
Graves	Shivers
Hardin	Stone
Head	of Washington
Lemens	Van Zandt
Martin	Weinert
Moffett	Winfield
Moore	

Nays—10

Aikin	Metcalf
Beck	Nelson
Collie	Stone
Hill	of Galveston
Isbell	Sulak
Lanning	

Absent

Burns Small
Redditt Spears

Absent—Excused

Kelley

Motion to Adjourn

Senator Hill moved that the Senate adjourn until 10:00 o'clock a. m., next Monday, February 6, 1939.

Yeas and nays were demanded, and the motion to adjourn was lost by the following vote:

Yeas—3

Hill Sulak
Metcalf

Nays—24

Aikin	Head
Beck	Isbell
Brownlee	Lanning
Collie	Lemens
Cotten	Martin
Graves	Moffett
Hardin	Moore

Nelson
Pace
Redditt
Roberts
Shivers
Stone
of Galveston

Stone
of Washington
Van Zandt
Weinert
Winfield

Absent

Burns
Small
Spears

Absent—Excused

Kelley

Question then first recurring on the amendment of Senator Sulak, it was adopted.

Committee Substitute Senate Bill No. 5 then was passed to engrossment.

Committee Substitute for Senate Bill 5 on Third Reading

Senator Moore moved that the constitutional rule requiring bills to be read on three several days be suspended and that C. S. S. B. No. 5 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—22

Beck
Brownlee
Collie
Cotten
Graves
Head
Isbell
Lanning
Lemens
Martin
Moffett
Moore

Nelson
Pace
Redditt
Roberts
Shivers
Stone
of Galveston
Stone
of Washington
Van Zandt
Weinert
Winfield

Nays—5

Aikin
Hardin
Hill

Metcalf
Sulak

Absent

Burns
Small
Spears

Absent—Excused

Kelley

The President then laid C. S. S. B. No. 5 before the Senate on its third reading and final passage.

Senator Pace moved the previous question on the passage of the bill, and the main question was ordered.

The bill was passed by the following vote:

Yeas—23

Beck
Brownlee
Collie
Cotten
Graves
Hardin
Head
Isbell
Lanning
Lemens
Martin
Moffett
Moore

Nelson
Pace
Redditt
Roberts
Shivers
Stone
of Galveston
Stone
of Washington
Van Zandt
Weinert
Winfield

Nays—4

Aikin
Hill

Metcalf
Sulak

Absent

Burns
Small

Spears

Absent—Excused

Kelley

Message from the Governor

The President laid before the Senate the following message, which was read and referred to the Committee on Nominations of the Governor:

Austin, Texas,
February 2, 1939.

To the Senate of the Forty-sixth Legislature:

I ask the advice, consent and confirmation of the Senate to the following appointment:

To be a Member of State Parks Board (to serve out unexpired term of Tom L. Beauchamp—5-15-41):

Raymond L. Dillard of Mexia, Limestone County.

Respectfully submitted,
W. LEE O'DANIEL,
Governor of Texas.

House Concurrent Resolution 29

The President laid before the Senate the following resolution, which was received from the House today:

H. C. R. No. 29, Authorizing the State Highway Department to lend

certain equipment to Grimes County, Texas.

The resolution was read and was referred by the President to the Committee on Highways and Motor Traffic.

Adjournment

On motion of Senator Lemens, the Senate, at 12:50 o'clock p. m., adjourned until 10:00 o'clock a. m., Monday, February 6, 1939.

APPENDIX

Reports of Committees on Enrolled and Engrossed Bills

Austin, Texas,
February 2, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Enrolled Bills have had S. C. R. No. 4 carefully examined, compared and read, and find same correctly enrolled.

STONE of Galveston, Chairman.

Austin, Texas,
February 2, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 119 carefully examined, compared and read, and find same correctly enrolled.

STONE of Galveston, Chairman.

Austin, Texas,
February 2, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 72 carefully examined, compared and read, and find same correctly enrolled.

STONE of Galveston, Chairman.

Austin, Texas,
February 2, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 103 carefully examined, compared and read, and find same correctly enrolled.

STONE of Galveston, Chairman.

Austin, Texas,
February 2, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 84 carefully examined, compared and read, and find same correctly enrolled.

STONE of Galveston, Chairman.

Austin, Texas,
February 1, 1939.

Hon. Coke R. Stevenson, President of the Senate.

Sir: We, your Committee on Engrossed bills, have had S. B. No. 105 carefully examined, compared and read, and find same correctly engrossed.

LANNING, Chairman.

SIXTEENTH DAY

(Monday, February 6, 1939)

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by President Stevenson.

The roll was called, and the following Senators were present:

Aikin	Moore
Beck	Nelson
Brownlee	Pace
Burns	Redditt
Collie	Roberts
Cotten	Shivers
Graves	Small
Hardin	Spears
Head	Stone
Hill	of Galveston
Isbell	Stone
Kelley	of Washington
Lanning	Sulak
Lemens	Van Zandt
Martin	Weinert
Metcalf	Winfield
Moffett	

A quorum was announced present.

The invocation was offered by the Chaplain.

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of Thursday, February 2, 1939, was dispensed with and the Journal was approved.

(President Pro Tempore Moore in the Chair.)